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Pentagon Drops Report Screening Plan

By Paul Mann

Washington—The Defense Dept. has shelved a long-standing proposal to require 60-day prior submission of what it previously called sensitive but unclassified basic research manuscripts, written by university researchers under contract to the department (AW&ST Mar. 19, p. 101; June 13, 1983, p. 20).

Henceforth no security review or delay will be imposed on any unclassified technical report done under contract, either by industry or university, that springs from Defense Dept. budget category 6.1, basic research.

Defense and university officials have yet to devise an alternative, however, to a companion proposal, strongly opposed by some universities. It would require 90-day prior submission of what the department used to call sensitive but unclassified development work manuscripts, with defense officials retaining the right either to impose prepublication changes or to block them outright.

This has been a key issue in a lengthy dispute between the Pentagon and the academic community over treatment of contract technical reports viewed as sensitive by defense officials but not sensitive enough to warrant secret classification. At present, the department has no policy regarding development manuscripts in budget categories 6.2 and above. A compromise, being explored by a task force created last spring, is scheduled for completion in October.

The task force is an offshoot of the Working Group on Export Controls, itself an adjunct of the Defense Dept.-University Forum set up in mid-1981 to foster discussion of the national security implications of scientific exchange and communication. At issue is how the government can prevent loss to adversary nations of militarily critical research information developed under government contract, without inhibiting intramural discussions on open technical reports and scientific forums.

Counterpart to the Defense Dept.-University Forum task force is a new Subcommittee on Scientific Communication to be chaired by Andrew Pettifor, senior policy analyst for the White House Office of Science and Technology Policy. The subcommittee, proposed by the National Science Foundation and endorsed by the Commerce Dept.'s Office of Export Ad-

ministration, will function as part of an interagency working group to provide advice on treatment of scientific communication in the pending revision of the Commerce Dept.'s Export Administration Regulations that govern "technical data."

These regulations are known as Part 379. They govern licenses to export and reexport information of any kind that can be used, or adapted for use, in design, production, manufacture, use or reconstruction of articles or materials.

The data may be tangible in models, prototypes, blueprints, or operating manuals; or intangible in form, such as technical service.

Data controls and other facets of export law have become a source of concern to research and academic groups because of the Reagan Administration's occasional use of them to limit distribution of and access to research presentations, including open technical meetings (AW&ST Sept. 13, 1982, p. 30).

Scholars, engineers and researchers are apprehensive that these applications of export law inhibit the free flow of research and technical data, even in open literature. The Defense Dept. in the past has forced withdrawal of technical papers, in one case involving the Society of Photo-Optical Instrument Engineers, even though the papers were not classified secret.

The department is concerned about freely dispensing sensitive information to the Soviet Union and about access of foreigners to meetings where technical data with possible military applications is presented and discussed. One fear is that foreigners will return home with sensitive data that otherwise might be subject to U. S. export restrictions intended to prevent their loss to the Eastern bloc.

General License

Under existing regulations, a general license, named GTDA, authorizes export of data generally available at open conferences, lectures, trade shows and the like; of readily available publications purchased without restrictions at nominal cost, and of scientific or educational data not directly or significantly related to design, production or use in industrial processes.

Data exports pertaining to nuclear weapons and explosive devices and related nuclear facilities require a validated license for all destinations, including Canada. Data exports pertaining to civil aircraft and many kinds of aircraft equipment also require a validated license for all destinations except Canada. To obtain a validated license, an exporter must file an application with the Commerce Dept. Depending on the item to be shipped, the application may entail lengthy review and processing.

No application is required for a general license, but on his own recognizance an exporter is supposed to consult the Commodity Control List to obtain a category number for his export and affix it to his shipper's declaration. From this number government authorities can ascertain if the item needs only a general license.

As envisioned by the National Science Foundation, the new Subcommittee on Scientific Communication will make recommendations for these and other kinds of data licenses. Its membership, which met for the first time earlier this month, includes representatives of the foundation, the Central Intelligence Agency and the State, Defense, Energy, Commerce and Justice departments. The foundation will be represented by its general counsel, Charles H. Herz.

In a letter to the Commerce Dept. outlining the functions of the subcommittee, Herz said it would explore "to what extent the rules for scientific communication that arise from research should differ from the rules for technical communication that arise from development. We

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would consider whether distinctions should be drawn between 'basic' and 'applied' research, between 'fundamental' research and nonfundamental research or between research that is and research that is not 'related to industrial processes.'

The subcommittee's work will become part of a broad federal effort, under way for years and led by the Commerce Dept., to draft a new export control list for technical data, which encompasses design and manufacturing know-how, and revised licensing procedures to accompany it.

Technology Restraints

The purpose of the revision is tighter controls on technology coupled, inferentially at least, with less restrictive restraints on commodities. A second purpose is to gain more control over reexports of data, especially high-technology ones (AW&ST Dec. 6, 1982, p. 115).

"We control technical data to the [Communist] bloc countries down to very low technologies," a Commerce Dept. official said, "but controls to the free world are general license with no adequate assurance that they won't be reexported."

Until recently, the conduct of university research had not caused serious concern about the handling of defense information, according to Edith W. Martin, deputy under secretary of Defense for research and

advanced technology. The situation lately, however, has been complicated, Martin said in recent congressional testimony, by universities' growing involvement in applied and manufacturing technologies, like microelectronics, and the increasingly blurred boundary between military and commercial technologies in products such as computers and advanced materials.

Prepublication Approval

"What is anathema to some of the university people is submitting their papers for approval before publication," Leo Young said. Young is director, research and laboratory management in the office of deputy under secretary of Defense for research and engineering (research and advanced technology). Both Young and Martin sit on the task force created by the Defense Dept./University Forum.

"Not all universities objected, but some do vehemently," Young said of the controversial 90-day prior review proposal.

That proposal was conceived to deal with what Young called "this tricky subject of how we handle sensitive, unclassified information. We have the old standard 'classified/unclassified,' black and white—and then the Corson report came up with the 'gray' area of sensitive, unclassified. It's not classified, nor is it unclassified with unlimited distribution. There's in some way a limit as to who can see it, and yet it's unclassified, you don't have to lock it up in a safe."

The Corson report, after Dale R. Corson, president emeritus, Cornell University, officially was titled Scientific Communication and National Security and was issued by the National Academy of Sciences in 1982.

In the case of manuscripts emanating from development contracts, Young said the Defense Dept. was concerned, for example, about the security of work in microelectronics, including very high speed integrated circuits (VHSIC).

Missile Application

Consider "university development work on a chip or circuit for, say, missile application," Young said, "and the person designing the circuit wants to publish something about it. What we're concerned about is that in doing so the Russians will know exactly what are the limitations of some particular circuit that goes into our missile and how it works, and they'll try to copy it."

But a follow-up analysis to the Corson report, released early this year, concluded that government policymakers lacked fresh evidence that scientific exchange encourages technology loss to the Soviet bloc (AW&ST Mar. 19, p. 101). It also charged that federal policymakers were pursuing new controls on government-funded research data without a central policy. □